

DEPARTMENT OF SOCIAL SERVICES

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February 7, 1984

ALL-COUNTY LETTER NO. 84-20

TO: ALL-COUNTY WELFARE DIRECTORS

SUBJECT: FOOD STAMP PROGRAM REQUIREMENTS TO REPORT ILLEGAL ALIENS TO
THE IMMIGRATION AND NATURALIZATION SERVICE

This is to provide clarification regarding the recently filed food stamp regulations requiring referral to INS of aliens present in the United States in violation of the Immigration and Nationalization Act (INA).

The following are the policy clarifications:

Question

Who is to be referred to INS?

Answer

The state food stamp regulations require that the CWD shall refer an alien to INS when the CWD discovers that a household member is in the United States in violation of the INA. In this situation, the term "household member" refers to a person whose name appears on the application or other documents and who would have been a food stamp household member except for his/her alien status. Referral would be required for any member of the food stamp or applicant household who is ineligible to receive food stamps because that member is in the United States under an order of deportation. Therefore, the phrase "in the United States in violation of the INA" should be confined to aliens under an order of deportation. This fact could be discovered by the alien's or other household member's admission, on food stamp documents, or through the presentation of INS documents showing that the alien is under order of deportation. The discovery must be made by CWD personnel that are responsible for certification or recertification activities (M.S. 63-403.4) and could occur any time during the review of the application form or at any other time the casefile is reviewed.

Question

How do the CWDs determine the alien's status?

Answer

CWDs are to determine the alien's status using the documentation requirements specified in food stamp regulations (M.S. 63-403.32). State food stamp

regulations (M.S. 63-300.4) prohibit questions that are not relevant to the determination of food stamp eligibility or benefit level. Asking questions to ascertain if an applicant is "illegal" or if they have an order of deportation is not relevant to food stamp eligibility or benefit level. The appropriate procedure is to determine if the alien has the required documentation that allows him/her to be an eligible alien. Therefore, the CWDs shall only ask questions pertaining to proper documentation of alien status for purposes of establishing eligibility for food stamp program benefits. Those aliens that are unable or unwilling to provide the appropriate alien documentation should be excluded from the eligible food stamp household and the CWD shall not refer the alien or the alien's name to INS nor shall the CWD pursue further documentation unless requested by the recipient in accordance with M.S. 63-403.324.

Question

May a household withdraw its application in order to prevent the reporting of an alien that is under order of deportation to INS?

Answer

Once the application is signed and the CWD discovers an order of deportation prior to withdrawal of the application, a subsequent withdrawal of that application would still require the CWD to refer the alien's name to INS.

Should you have any questions regarding the policy provided in this letter, please contact your Food Stamp Policy Consultant at (916) 324-6584.


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Deputy Director

cc: CWDA